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**ALLTEL**

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June 11, 1996

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Mr. William F. Caton  
Office of the Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, DC 20554

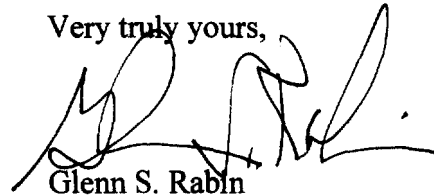
Re: CC Docket No. 96-115  
Implementation of the Telecommunications Act of 1996  
Telecommunications Carrier's Use of Customer Proprietary  
Network Information and Other Customer Information

Dear Mr. Caton:

Enclosed for filing please find an original and eleven (11) copies of the Comments of ALLTEL Telephone Services Corporation in the referenced rulemaking proceeding.

Please address any questions respecting this matter to the undersigned counsel.

Very truly yours,



Glenn S. Rabin

GSR/ss

Enclosures

cc: Ms. Janice Myles (w/diskette)  
International Transcription Services, Inc.

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of

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CC Docket No. 96-115

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Telecommunications Carrier's Use  
of Customer Proprietary Network  
Information and Other Customer  
Information

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**COMMENTS OF ALLTEL Telephone Service Corporation**

ALLTEL Telephone Services Corporation <sup>1</sup> ("ALLTEL") hereby submits its comments  
in response to the Commission's Notice of Proposed Rulemaking in the above-captioned matter.<sup>2</sup>

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<sup>1</sup> The ALLTEL local exchange companies, through their various affiliates and subsidiaries, provide local exchange service to over 1.6 million access lines nationally. ALLTEL also maintains a wholly owned and separated subsidiary, ALLTEL Publishing Corporation, which publishes both white and yellow page directories on behalf of the ALLTEL local exchange companies and other independent telephone companies unrelated to the ALLTEL corporate family.

<sup>2</sup> Notice of Proposed Rulemaking in CC Docket No. 96-115, FCC 96-221 (Released May 17, 1996) ("NPRM").

In support thereof, the following is respectfully set forth.

ALLTEL notes, as does the Commission (NPRM at paras. 1-2) that the Telecommunications Act of 1996<sup>3</sup> nowhere affirmatively requires the Commission to undertake the instant rulemaking, let alone establish definitive rules governing the use by telecommunications carriers of customer proprietary network information ("CPNI"), aggregate information, and subscriber list information. Rather, the proceeding was instituted in response to inquiries seeking guidance on the new requirements of Section 702 of the 1996 Act.<sup>4</sup>

Inasmuch as smaller and independent carriers have not previously been subject to CPNI-type requirements,<sup>5</sup> compliance with the 1996 Act's new requirements may entail major technical, organizational, and financial challenges for these carriers and their subscribers. The Commission should be mindful of these challenges in setting guidelines, regulations and implementation timeframes. Indeed, and by analogy to the various interconnection issues under Sections 251 and 252 of the 1996 Act, the Congress has acknowledged the vastly different status of carriers with less than 2% of the nation's access lines and their inability to effectively shoulder regulatory requirements which are unduly burdensome. Ultimately, as the Commission acknowledges at para.7 of the NPRM, the Commission must strike the appropriate balance among customer's

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<sup>3</sup> Pub. L. No. 104-104, 110 Stat. 56 (1996) (the "1996 Act").

<sup>4</sup> Section 702 of the 1996 Act adds new Section 222 to the Communications Act of 1934, as amended. Subsequent references herein are to Section 222.

<sup>5</sup> The Commission notes at para. 3 of the NPRM that the requirements established under the Computer II and Computer III proceedings applied only to AT&T, the Bell Operating Companies ("BOCs") and GTE. ALLTEL fully concurs with the Commission's tentative conclusion not to extend the pre-existing CPNI rules to carriers other than those to which they were originally applicable.

privacy interests, the competitive equities of the new and emerging telecommunications markets and the efficiency with which carriers, and particularly non-BOC carriers,<sup>6</sup> are permitted to provide those services.

**I. THE COMMISSION SHOULD ADOPT A BROAD CONSTRUCTION OF "TELECOMMUNICATIONS SERVICES" FOR PURPOSES OF SECTION 222.**

The Commission notes at para. 20 of the NPRM that neither the 1996 Act nor the Conference Report provide explicit guidance as to the scope of the definition of "telecommunications service" for purpose of Section 222. While acknowledging that the term could be interpreted broadly to encompass any service, the Commission has instead tentatively opted for a much more restrictive reading under which CPNI obtained through the provision of one service could not be used by the subscriber's chosen carrier in connection with the provision of another service. Under the Commission's approach, three distinct classes of telecommunications services would be created: local; interexchange; and commercial mobile radio services (NPRM at para. 22.) CPNI obtained from providing any one of these discrete services could not be used for any purpose, including marketing, related to any other service provided by the carrier unless expressly authorized by the subscriber or referenced in one of the exceptions in subsections 222(c) and (d)

If taken literally, this approach would require that carriers segregate every service offering from basic dial tone, to caller ID, call waiting, call forwarding and other complimentary services

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<sup>6</sup> Independent carriers face a number of competitive impediments when confronted with competition from vastly larger facilities-based and essentially unregulated competitors. Indeed, the Commission is considering within the instant rulemaking whether to relieve AT&T of the previous CPNI requirements by virtue of its newly determined non-dominant status.

yet to be developed. ALLTEL does not believe Congress' intent was to effectively prohibit a carrier with which a subscriber has a pre-existing relationship from providing that subscriber with information respecting new or better services of interest to the subscriber.

The Commission's delineation of the categories of telecommunications services simplistically follows the traditional MFJ-based stratification of the telecommunications industry which has been effectively superseded by 1996 Act and the potential for "one stop shopping" it envisioned. In the wake of the 1996 Act, these delineations entail arbitrary service aggregations which do not fit neatly with either the existing or emerging marketplace.<sup>7</sup> The traditional market distinctions among telecommunications carriers are quickly blurring. Carriers are now free to combine such service offerings as local exchange, long distance, and wireless and video.

ALLTEL, as an independent telephone company, notes that it has never been subject to the MFJ and currently provides local exchange, long distance, and wireless services. Further, it has done so without the imposition of earlier CPNI restrictions, presumably due to the absence of both abuse and any threat to our customers or the competitive market place. Were the Commission to adopt the restrictive interpretation of telecommunications services it now proposes, mid-size and smaller carriers would be required to establish costly and elaborate internal business procedures in order to differentiate among the discrete services offered, track the subscriber consents obtained, and, soothe subscriber irritation at having to obey new Commission rules in order to service accounts with CPNI. These are competitive and economic burdens that mid-sized

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<sup>7</sup> The Commission acknowledges at para. 23 of the NPRM that the distinctions among services may become outdated. ALLTEL simply asserts that these distinctions are already outdated, and designed more to preserve the outmoded structure of today's telecommunications market than to protect subscriber's privacy interests.

and small companies are ill equipped to shoulder. ALLTEL, therefore, suggests that the Commission adopt the widest possible parameters for the delineation of both telecommunications services and the exceptions listed in Section 222(c).

**II. THE COMMISSION SHOULD REQUIRE WRITTEN  
AUTHORIZATIONS ONLY FOR CPNI DISCLOSURES  
TO THIRD PARTIES.**

The Commission, at paras. 27-28 of the NPRM, seeks comment as to the form of CPNI authorization to be used and tentatively concludes that a telecommunications carrier seeking its subscribers' approval to use CPNI first notify the subscriber of his right to restrict the use of CPNI.

ALLTEL views the notification and authorization process as different sides of the same coin. The 1996 Act nowhere requires that carriers affirmatively notify subscribers of their right to restrict access to CPNI. Similarly, while the Act requires subscriber consent to certain uses and dispositions of CPNI, the form of that consent is also unspecified by the Act.

ALLTEL believes that should the Commission require carriers to provide written notification to subscribers of their rights under Section 222, (for example, in a bill insert), further authorization from the subscriber to carriers with whom the subscriber has a pre-existing relationship should not be required except for those disclosures made to third parties. Given the privacy interests of the subscriber, such disclosures should only be made at the express direction of the subscriber. ALLTEL believes that, in the face of a notification detailing the provisions of Section 222, the consent of the subscriber to his carrier's use of CPNI may be inferred in the absence of any affirmative customer imposed restriction. Adoption of such a standard would permit efficient customer service while preventing disclosure of potentially sensitive information

to third parties with which the subscriber may have no pre-existing relationship.

### **III. NO NOTICE OF AVAILABILITY OF AGGREGATE CPNI SHOULD BE REQUIRED.**

The Commission at para. 37 of the NPRM seeks comment as to whether carriers should be required to publish notices respecting the availability of aggregate CPNI. ALLTEL believes that such notices serve no purpose; the 1996 Act speaks for itself. If a carrier accesses its aggregated CPNI, it is bound to honor the requests for the same information by other carriers or risk violation of the 1996 Act. Publication does little, if anything, to ensure a carrier's compliance.

### **IV. ACCESS TO SUBSCRIBER LIST INFORMATION**

ALLTEL concurs with the Commission's interpretation that Section 222(e) requires not only LECs but other telecommunications carriers to provide subscriber list information to the extent the carrier provides telephone exchange service. (NPRM at para. 43) Other specific rules implementing Section 222(e) are neither mandated by the 1996 Act or required at this time.

Directory publishing is a competitive business and structurally separated publishing affiliates should be permitted to participate unfettered in the marketplace so long as the local exchange affiliate abides by the requirements of Section 222(e). Those requirements, although newly established under the 1996 Act, are straightforward.

The key principal embodied in Section 222(e) is non-discrimination between a LEC and its publishing affiliate. LEC affiliated publishers should receive services or data at the same level, in the same form, at the same time and at the same price as independent publishers. The 1996 Act contains no further requirements.

The Commission should not require LECs to provide new costly services, include new data or to re-engineer their data processing systems to provide listings in a form not normally maintained by the carrier to satisfy the requests of independent publishers, each of whom may have different requirements. The Commission should simply enforce a reasonable non-discrimination standard.

Similarly, the 1996 Act does not specify the price, terms and conditions upon which the subscriber list information must be made available other than on a nondiscriminatory and reasonable basis.<sup>8</sup> ALLTEL notes, however, that the obligation to provide subscriber list information runs only to those whose purpose in obtaining such data is to publish a directory. ALLTEL therefore believes that as a matter of industry practice, all requests for such data should be made in writing. No LEC should be under the obligation to provide data until it receives an executed contract containing an appropriate warranty from the purchaser that the data will be used solely for the purpose of publishing a directory.

Respectfully submitted,

ALLTEL Telephone Services Corporation

By: 

Glenn S. Rabin

Federal Regulatory Counsel

June 11, 1996

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<sup>8</sup> Nowhere in the Act is the term "reasonable" equated with incremental costs.